

EXHIBIT 13

MARJORIE FERRELL, et al vs. WYETH-AYERST

Videotaped Deposition of Gary French, Ph.D. - Volume II

October 24, 2002

COURT REPORTERS, ETCetera, INC.

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<p style="text-align: right;">Page 519</p> <p>1 my work, so you're asking me questions that I'd</p> <p>2 have to think a lot more about, probably would</p> <p>3 want to do further analysis than just these</p> <p>4 tables that were created for pass-through.</p> <p>5 Q. Let's follow through this hypothetical</p> <p>6 that I have that the price increase on March 1st,</p> <p>7 2000 was anti-competitive and was the first</p> <p>8 anti-competitive price increase of the period.</p> <p>9 When prices were raised again on September 1st of</p> <p>10 2000, I take it that the anti-competitive</p> <p>11 increase that took place on March 1st of 2000</p> <p>12 would have been carried through in the prices</p> <p>13 that existed as of that time, right?</p> <p>14 MR. GUSTAFSON: Object to the form of</p> <p>15 the question.</p> <p>16 Q. Or is that wrong?</p> <p>17 A. I don't know that I can answer the</p> <p>18 question. I mean this is looking at things in a</p> <p>19 very mechanical, strange way. I mean, normally</p> <p>20 to determine whether something is monopolistic or</p> <p>21 higher than a competitive price, you compare the</p>	<p style="text-align: right;">Page 521</p> <p>1 true that for reasons that have nothing to do</p> <p>2 with anti-competitive conduct, prices might have</p> <p>3 been going up anyway, so you'd have to look at</p> <p>4 other factors to make sure. I mean you could</p> <p>5 have one price increase that is wholly or 100</p> <p>6 percent monopolistic, no business or economic</p> <p>7 reason for it to go up other than that they have</p> <p>8 the monopoly power to extract it. Then you can</p> <p>9 have another price increase where the only reason</p> <p>10 they increase is because their costs went up by</p> <p>11 that much and that's a legitimate price increase.</p> <p>12 You wouldn't compound the two or add them</p> <p>13 together, but I don't have that kind of</p> <p>14 information to know at this point in the case.</p> <p>15 Q. So it's not your view necessarily that</p> <p>16 the amount of the anti-competitive overcharge</p> <p>17 would have been greater at the end of the class</p> <p>18 period than it was earlier in the class period?</p> <p>19 A. No.</p> <p>20 MR. GUSTAFSON: Object to the form of</p> <p>21 the question.</p>
<p style="text-align: right;">Page 520</p> <p>1 price to a competitive price, not to the same</p> <p>2 prices as the -- I don't -- as I've said, I think</p> <p>3 that Wyeth for decades has had monopoly power, so</p> <p>4 probably every price on this table reflects a</p> <p>5 degree of monopoly power, but you're adding in</p> <p>6 your earlier questions something relating it to</p> <p>7 the claims in this case.</p> <p>8 Q. Right.</p> <p>9 A. And I don't know that I can separate</p> <p>10 that with just this information, so I don't think</p> <p>11 I can answer those questions.</p> <p>12 Q. Assuming that the March 1st, 2000</p> <p>13 price increase reflected some anti-competitive</p> <p>14 component, that some portion or all of it were in</p> <p>15 a competitive -- is it possible that the</p> <p>16 September 1st, 2000 increase would have added an</p> <p>17 additional anti-competitive increment on top of</p> <p>18 the March 1st, 2000 increment?</p> <p>19 MR. GUSTAFSON: Object to the form of</p> <p>20 the question. Incomplete.</p> <p>21 A. I guess it's possible, but it's also</p>	<p style="text-align: right;">Page 522</p> <p>1 A. It's not necessarily my view that that</p> <p>2 would be true. I haven't done the empirical work</p> <p>3 yet to quantify the extent of the overcharge.</p> <p>4 Q. Would it have made sense from an</p> <p>5 economic point of view and have been profit</p> <p>6 maximizing from Wyeth's prospective to take full</p> <p>7 advantage of whatever anti-competitive increase</p> <p>8 it could make based on the elimination of</p> <p>9 Cenestin as a competitor as quickly as possible</p> <p>10 after it had known Cenestin as its competitor?</p> <p>11 MR. GUSTAFSON: Object to the form of</p> <p>12 the question.</p> <p>13 A. I don't know that that question makes</p> <p>14 sense. It never really had Cenestin as a viable</p> <p>15 competitor. So what happened before Cenestin</p> <p>16 entered and what happened after Cenestin entered</p> <p>17 were pretty similar competitive situations for</p> <p>18 Wyeth because of its own actions.</p> <p>19 Q. So that you wouldn't have expected any</p> <p>20 major differences in pricing patterns for Wyeth</p> <p>21 before and after the conduct alleged in this</p>

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<p>1 case? Because in your view it was a monopolist</p> <p>2 in both cases and had no viable competitor?</p> <p>3 A. I wouldn't say there would be zero or</p> <p>4 no difference at all, but I wouldn't necessarily</p> <p>5 expect that there would be a difference either.</p> <p>6 It's -- I haven't studied those questions enough</p> <p>7 to know for sure.</p> <p>8 Q. Let's see. Now, if you look up --</p> <p>9 we're still on Exhibit 4, and you have a -- you</p> <p>10 break out separately cash and third-party prices.</p> <p>11 Why did you do that?</p> <p>12 A. Well, just to see if there was much</p> <p>13 difference between the two segments and there is</p> <p>14 a little bit of difference in terms of the price</p> <p>15 increases and the way the difference goes doesn't</p> <p>16 surprise me.</p> <p>17 Q. Right, that at least for the first --</p> <p>18 well, it's uniformly the case that the percentage</p> <p>19 increase for the cash customers is greater than</p> <p>20 the percentage price increase for the third-party</p> <p>21 customers, right?</p>	<p>1 look at the rebates, you don't know if the</p> <p>2 percentage -- it might be 4.3 percent if you</p> <p>3 could take the rebates into account, but it might</p> <p>4 not. It's not clear.</p> <p>5 Q. It might be 4.3? It might be 2.9?</p> <p>6 You don't know until you look at it, right?</p> <p>7 A. No, you don't know for sure until you</p> <p>8 look at it and that's part of the reason why I</p> <p>9 showed them separately because one of them is</p> <p>10 very clean, the other one's not so clean.</p> <p>11 Q. So why didn't you attempt to look at</p> <p>12 the information concerning rebates to factor that</p> <p>13 in?</p> <p>14 A. Don't have the discovery yet. Can't</p> <p>15 do it.</p> <p>16 Q. Have you looked through the discovery</p> <p>17 to see whether or not that's in there, that's</p> <p>18 been made available in the Duramed case?</p> <p>19 A. Well, I saw the Wyeth documents and</p> <p>20 there was some data about rebates in there, but I</p> <p>21 didn't think it was comprehensive what I've seen.</p>
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<p>1 A. That's correct, but here you must</p> <p>2 understand that the third-party price is IMF -- I</p> <p>3 mean IMA -- IMS third-party price and it does not</p> <p>4 include the rebate component, so it's not the</p> <p>5 full picture necessarily.</p> <p>6 Q. Right. This is only half a price,</p> <p>7 really?</p> <p>8 A. Well, I don't know about half. It's</p> <p>9 not the full net to third-party price. It's sort</p> <p>10 of a gross price before you subtract rebates and</p> <p>11 the rebates are given quarterly I think for a</p> <p>12 large volume of transactions and it's not obvious</p> <p>13 what they are on a per pill basis unless you do</p> <p>14 some work and have some data to work with which</p> <p>15 presumably will happen later in discovery, but we</p> <p>16 don't have that at this point. That was probably</p> <p>17 one reason for breaking it out to show that where</p> <p>18 you don't have that sort of incompleteness in the</p> <p>19 data, the cash paying price, you can see what's</p> <p>20 happening. It's a little different with the</p> <p>21 third-party price, but some of that -- when you</p>	<p>1 Maybe it's there and I missed it, but I wouldn't</p> <p>2 want to rely on what was in the Duramed case and</p> <p>3 what kind of came to me secondhand that way. I'd</p> <p>4 want to be able to ask for exactly what I needed</p> <p>5 and be certain that that's what the defendants</p> <p>6 were responding to when they provided the</p> <p>7 information. I don't know what the discovery</p> <p>8 requests were by Duramed.</p> <p>9 Q. That didn't seem to hold you back in</p> <p>10 connection with your first report. You didn't</p> <p>11 ask for any independent documents. You just</p> <p>12 looked at the documents that had been produced in</p> <p>13 the Duramed litigation, right?</p> <p>14 MR. GUSTAFSON: Object to the</p> <p>15 question, argumentative.</p> <p>16 A. I was not trying to measure something</p> <p>17 like rebates and I did not use anything analogous</p> <p>18 to that in the first report.</p> <p>19 Q. You looked at pricing data, didn't</p> <p>20 you?</p> <p>21 A. Yeah, pricing data is IMS data. I</p>